

**CITY OF LAKEWAY
ORDINANCE NO. 2011-08-15-05**

SHORT TERM RENTAL LICENSE ORDINANCE

**AN ORDINANCE ESTABLISHING THE REQUIREMENTS FOR THE
ISSUANCE, MAINTENANCE AND RENEWAL OF SHORT TERM
RENTAL LICENSES AND PROVIDING FOR THE REVOCATION OF
SAME AND PENALTY FOR VIOLATIONS TO THIS ORDINANCE; AND
PROVIDING FOR FINDINGS OF FACT, REPEAL OF CONFLICTING
PROVISIONS, SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Lakeway ("City Council") seeks to provide for the orderly regulation of businesses within its corporate limits; and,

WHEREAS, pursuant to section 215.075 of the Texas Local Government Code, the City is authorized to license any lawful business or occupation that is subject to the police power of the city; and,

WHEREAS, the City Council has found and determined that Short Term Rental Use, as defined in Chapter 22.02, should be regulated and licensed to ensure the public's health safety and welfare; and,

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals and general welfare; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at a public meeting conducted by the City Council, and the agenda for each meeting was posted at City Hall more than seventy-two (72) hours prior to the respective meeting.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKEWAY, COUNTY OF TRAVIS, STATE OF TEXAS:

Article 1. Findings of Fact

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Lakeway and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Article 2. Adoption

That the City Council hereby adopts the following language and requirements for the issuance and renewal of a Short Term Rental License:

Article 6.05 Short Term Rental Use

Section 6.05.001 Purpose

The provisions of this ordinance are deemed to be the minimal necessary regulations for the purpose of regulating Short Term Rental Use within the City's corporate limits, and are designed to ensure that properties used for Short Term Rental Use, as defined in Chapter 22.02 of the Lakeway Code of Ordinances, are occupied in a safe and healthful manner and do not encroach on the rights of other neighboring property owners to peacefully enjoy their property.

Section 6.05.002 Jurisdiction

This ordinance applies to all Short Term Rental Use within the corporate limits of the City of Lakeway, Texas.

Section 6.05.003 License Required

A. No owner or real estate manager of residential property shall conduct, operate, or maintain residential property for the purposes of Short Term Rental Use, as defined in Chapter 22.02 of the Lakeway Code of Ordinances, in the City without the owner first having obtained and paid for a valid license from the Code Official, and complying with the requirements of this ordinance, as may be amended, and all applicable provisions of the City's Ordinances.

B. The applicant for a license subject to this ordinance shall pay a fee as established by the City Council and file a completed and verified application with the City on the form promulgated by the City, and at a minimum shall provide the following information:

1. Address of the property proposed to be used for Short Term Rental Use;
2. Owner and contact information for the owner of the real property;
3. The type of property, such as single-family, duplex, or condominium;
4. Local contact person with contact information who will manage the property to be used for Short Term Rental Use if different than the owner;
5. Written authorization from the owner of the real property verifying that the property will be used for Short Term Rental Use; and
6. Any additional information on the form promulgated by the City, or as deemed necessary by the Director of Building and Development Services to process the application.

C. Once the Code Official certifies that an application is complete and authorized by the Zoning chapter of the Code of Ordinance for the requested location, a license shall be issued to the owner of the property.

D. Any person who operates a property for Short Term Rental Use where the owner has not obtained a license from the City commits a class C misdemeanor punishable in accordance with Section 6.05.012 of this ordinance.

Section 6.05.004 General Use Standards

A license issued for Short Term Rental Use may be suspended or revoked by the City in accordance with Section 6.05.006 if a complaint is received, and, if, after investigating the complaint following the procedure outlined in Section 6.05.007, it is determined that one or more of the following conditions have been violated:

1. All structures housing Short Term Rental Use shall comply with this ordinance and any other applicable regulations of the Lakeway Code of Ordinances.
2. Parking by renters or their guests shall be limited to the right-of-way abutting the rental property and to the garage and driveway on the rental property, and shall not encroach upon or obstruct ingress and egress to the neighboring properties;
3. Advertisement of the Short Term Rental Use shall not be displayed on the premises of the property in any manner that is visible from the exterior of the house.
4. Holders of a Short Term Rental Use license shall comply and ensure that their tenants comply with all applicable City Ordinances and state laws regulating litter, waste disposal, noise, nuisance, and other regulations for the protection of the health, safety, and welfare of the public.
5. Tenants of a property used for Short Term Rental Use shall not create a nuisance by way of noise, damage, odors, inconsiderate or offensive behavior, late night parties, illegal alcohol or drug use, public urination, public exposure, disturbance of the peace, disorderly conduct, or any other conduct that may constitute a private or public nuisance.

Section 6.05.005 Duration

All licenses issued for Short Term Rental Use shall be valid for a period of three (3) years, unless the license is revoked by the City.

Section 6.05.006 Warning, License Denial, Suspension and Revocation

A. A code enforcement officer or police officer may issue one or more warnings or citations to any person who is the subject of a complaint or who violates the terms of this Ordinance or any City Ordinance as described in Section 6.05.004. When warnings or citations are issued, the local manager of the subject property shall be notified.

B. After a property owner or tenant has received a minimum of one (1) conviction in municipal court for a violation of the terms of this Ordinance or any City Ordinance as described in Section 6.05.004, the Director of Building and Development Services may deny an application for a license or may suspend or revoke any license granted hereunder by serving applicant or licensee with written notice by hand-delivery or certified mail, return-receipt requested, if the applicant or licensee is found to be in violation of this ordinance or other applicable municipal regulation, or due to a valid complaint filed with the City as described in Section 6.05.007.

C. If the Director of Building and Development Services issues a written notice of denial, suspension or revocation of a license to the applicant or licensee, such notice shall contain, at a minimum, the following:

1. The address of the location and name of the applicant or licensee;
2. A statement that the license is denied, suspended or revoked;
3. The reason(s) for the denial, suspension or revocation;
4. An order that the location is closed for Short Term Rental Use;
5. Recommended corrective measures, if any, that will bring the activities or conditions on the property into compliance with the requirements of this or any other applicable ordinance;
6. A reasonable time limit for the completion of such corrective measures, if any;
7. A statement that the license, if suspended, is subject to revocation for failure to complete the corrective measures within the allotted time; and
8. A statement that the denial, suspension or revocation may be appealed to the Board of Adjustment under the provisions set forth in Section 6.05.008 of this ordinance.

D. Revocation of a license shall be for a period of six (6) months.

Section 6.05.007 Complaint Procedure

A. The Director of Building and Development Services shall have primary jurisdiction to receive, investigate and respond to complaints about activities or conditions at any location for which a Short Term Rental Use license has been issued. In addition to members of the public, a complaint may be initiated by an employee or officer of the City, including a code enforcement officer, a police officer, the Director of Building and Development Services or the City Manager.

B. Such a complaint may be made verbally, in writing, by telephone, by electronic mail or other effective communications method to a code enforcement officer, a police officer, the Director of Building and Development Services or the City Manager.

C. Any other City official or employee who receives such a complaint shall either forward the same to a code enforcement officer, the Police Department, the Director of Building and Development Services or the City Manager, or shall direct the complainant to one of the foregoing City officers. Failure of the complaint to be submitted promptly or to the correct person or entity shall not be considered as grounds for the City to dismiss, ignore, or invalidate a complaint.

D. The person receiving the complaint on behalf of the City shall request that a verbal complaint be reduced in writing. The name, address, phone number or other reliable contact information shall be provided by the complainant.

E. A code enforcement officer, a police officer, the Director of Building and Development Services or the City Manager may investigate any valid complaint regarding

activities or conditions at any location for which a Short Term Rental Use license has been issued, and it shall be the responsibility of the Director of Building and Development Services to compile such information, such as police reports, witness statements, photographs and other relevant documentation, and, based on that information, make a determination of appropriate action in response to the complaint. Action may include suspension or revocation of a license, citation for violation of this Ordinance, or other action, and to prepare the notice described in Section 6.05.008, if applicable.

Section 6.05.008 Appeals

A. Determinations made by the Director of Building and Development Services may be appealed to the Board of Adjustment.

B. The Determinations made by the Director of Building and Development Services with regard to suspension, revocation, or denial of a license are final unless, within 30 calendar days from the date of receiving the written notice described in Section 6.05.006, the owner or operator files with the City Secretary a written appeal to the Board of Adjustment specifying reasons for the appeal. Within fifteen (15) business days of the filing of an appeal, the Director of Building and Development Services shall prepare a report indicating the reasons for the denial, suspension or revocation, and shall provide a copy to the applicant or licensee, as well as indicate the date and time that the appeal has been scheduled for hearing before the Board of Adjustment.

C. Written notice of the public hearing before the Board of Adjustment shall be given to the owners of all real property located within 200 feet in all directions of the property that is the subject of the hearing. Notice shall be given not less than ten (10) days prior to the date of the hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner at his address shown on the last approved city tax roll, with postage prepaid.

D. Such notice shall state the purpose, date, time, and place of the hearing and shall contain a brief description of the appeal including its nature, scope, and location. The notice shall also state the location and times at which the applications and supporting documents are available for public inspection. A telephone number shall be provided where information on the hearing is available.

Section 6.05.009 Transfer

A Short Term Rental Use license may not be transferred or assigned to any third party except heirs and assigns, and the license shall be void upon transfer of ownership of the property where the Short Term Rental Use is located. Upon change of ownership, the new owner must apply for a new Short Term Rental Use license in order for Short Term Rental Use activity to be authorized.

Section 6.05.010 Renewal

A. No less than 30 days prior to the expiration of the license, the licensee shall apply for a renewal and pay the applicable fee for renewal of the license.

B. The Director of Building and Development Services may approve a renewal of the Short Term Rental Use license for an additional 36 month period.

Section 6.05.011 Enforcement Authority

The Director of Building and Development Services or his designee, a City police officer, or the City Manager or his or her designee shall be authorized to administer and enforce the provisions of this ordinance.

Section 6.05.012 Penalty

Any person who operates a property for Short Term Rental Use without obtaining a license from the City shall upon conviction, be guilty of a misdemeanor and be punished by a fine not to exceed two thousand dollars. Each day the violation occurs shall constitute a separate offense. Any person violating this ordinance is subject to a suit for injunction as well as prosecution for criminal violations.

Article 3. Severability

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Article 4. Repealer

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

Article 5. Effective Date

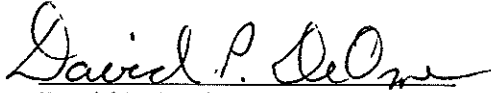
This ordinance shall take effect on October 1, 2011. However, persons already operating properties for Short Term Rental Use prior to the adoption of this ordinance shall have a period of 60 days from the effective date to make application for a license before becoming subject to the penalty section of this ordinance.

Article 6. Proper Notice and Meeting

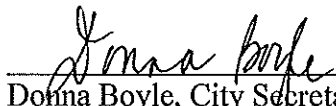
It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

ADOPTED, PASSED AND APPROVED this 15th day of August, 2011.

CITY OF LAKEWAY:


David P. DeOme, Mayor

ATTEST:


Donna Boyle, City Secretary

